ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of the Commission's Rules)
and Policies to Increase Subscribership and) CC Docket No. 95-115
Usage of the Public Switched Network)

COMMENTS OF BELL ATLANTIC

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TABLE OF CONTENTS

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FEDERAL COMMUNICATIONS COMMISSION
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COMMENTS OF BELL ATLANTIC[1]

I. Introduction and Summary.

With high telephone subscribership in the United States and a steady increase over the past decade, there is not a nationwide deficiency that requires federal intervention. Instead of adopting expensive and unnecessary national programs, the Commission should work with the states as appropriate to coordinate existing federal programs, such as Link-up America and Lifeline assistance, with the ongoing efforts of the states to ensure that subscribership levels remain high and that any pockets of low subscribership that may exist are remedied with solutions tailored to the unique needs of those areas.

Overall, telephone subscribership has shown a steady increase in the decade since divestiture, rising from 91.6% in 1984 to nearly 94% today. Subscribership in Bell

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[1] The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

Atlantic's seven jurisdictions is currently close to or above this national average. These high penetration levels result from such factors as local service rate structures, public education programs, state initiatives, and federal programs such as Link-up and Lifeline.

The state commissions in Bell Atlantic's region are continuing to address the subscribership issue in varying ways, reflecting the varying demographics of the local population and prevalent local economic and competitive conditions. The Commission should continue to encourage such local programs, monitor the effectiveness of various approaches, and work with state commissions to help ensure that their programs continue to meet the needs of their citizens.

Conversely, the Commission should not attempt to prescribe uniform national requirements for these local services, such as prohibiting the denial of dial tone service for non-payment of toll calls and prescribing deposit requirements. Instead, state commissions should continue to determine what programs are appropriate to meet the needs and conditions prevailing in their particular jurisdictions. State commissions are best able to weigh the trade-offs in deciding which programs will best achieve or maintain high subscriber penetration in their individual states. A Commission-prescribed nationwide program, by its nature, cannot be as effective as separate targeted efforts designed to meet varying state and local conditions.

Moreover, the Commission should recognize that some of the more complex and expensive state programs referred to in the Notice[2] have not been as

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[2] ***Notice of Proposed Rulemaking***, FCC No. 95-281, CC Docket 95-115 (rel. July 20, 1995) ("Notice").

successful as they may appear on the surface, while some of the simplest and least expensive programs have been the most successful. For example, subscribership has somewhat increased since the advent of Pennsylvania's complex program, known generally as "Chapter 64," but at a slightly slower rate than the national average. Moreover, Pennsylvania's program has not been without considerable cost; Bell Atlantic has experienced a nearly 400% increase in uncollectables and a sharp rise in administrative expenses. By contrast, Virginia, with one of the highest penetration levels in the country and rapid subscribership growth, has implemented a much less expensive and intrusive program. Accordingly, a program like Pennsylvania's Chapter 64 may not be cost-effective in all states, and the Commission certainly should not prescribe such an elaborate program, with all its hidden costs, nationwide. Instead, each state should continue to be free to conduct its own cost-benefit analysis in light of local needs.

II. Subscribership Solutions Should be Based on Local Needs.

As the Commission recognizes, "a 100 percent penetration level is not possible."[3] Certain people prefer not to have telephones in their residences or are satisfied with access to public phones or telephones at their place of employment to meet their communications needs. Others have no permanent dwelling and have access to telephones at shelters or other community access locations. Still others find cellular service an adequate substitute for landline service. As a result, many states may already be at or near their maximum feasible penetration levels. Expensive programs designed to increase

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[3] *Id.* at ¶ 44.

subscribership will not significantly increase penetration levels in those states, but they would be costly in terms of increased administration and uncollectables.

Each Bell Atlantic jurisdiction has implemented its own customized program designed to retain or increase local telephone subscribership and each continues to monitor and adjust its program to improve its effectiveness. Some states have prescribed budget calling services for those who want access to telephone services but originate few outgoing calls. Others have established more elaborate mechanisms, with calling plans aimed at specific customer groups. Such state-by-state program development and implementation is appropriate, because conditions vary widely. A program that meets the needs of one state may not be appropriate in another. Moreover, Bell Atlantic's experience has been that the simpler, less expensive programs have been the most successful. This can be seen by a brief review of the widely divergent programs in several of Bell Atlantic's jurisdictions.[4]

Pennsylvania's "Chapter 64" program is administratively complex and expensive to administer. It requires separate bill balances for different services and contains detailed rules regarding denial of service (including denial of service for non-payment of toll), notification and negotiation, and payment schedules. As a result, uncollectables have increased nearly 400% and administrative costs have risen more than $24 million per year. Yet subscriber penetration under Chapter 64 has increased at a slightly lower rate than the national average, and at least some of this increase can be

[4] A more detailed discussion of these programs appears in the Appendix.

attributed to factors unrelated to Chapter 64, such as the availability of measured usage plans and voluntary toll restriction.

Delaware has adopted a program similar to that in Pennsylvania. The subscribership rate there, however, has remained flat under the program, while uncollectables have shot up.

The District of Columbia has tried a different approach -- a series of very low priced services for certain segments of the low-income community and a service with mandatory toll restriction that allows disconnected customers to remain on the network. Until very recently, however, the District's penetration rate steadily declined under this program. Bell Atlantic is working closely with the Public Service Commission and community groups to continue to improve the penetration rate.

By contrast, Virginia's program is limited to a low rate for individuals who qualify for Medicaid or Food Stamps, combined with voluntary community education efforts which Bell Atlantic has initiated in cooperation with state and local officials. This program is relatively simple and inexpensive to administer. Yet Virginia has achieved the highest penetration rate in Bell Atlantic and one of the highest in the country, and its rate of increase exceeds the national average.

This experience demonstrates that no one solution is appropriate nationwide, and that each approach has its costs and benefits. While the results of these customized programs are not always as favorable as originally envisioned, the state commissions are in the best position to assess local needs and to develop or adjust programs based upon the unique conditions faced in that jurisdiction. Moreover, the cost to the public of an inappropriate program, both in terms of uncollectables and administrative expenses, may far outweigh the benefits. Accordingly, the Commission should not attempt to impose a national program on all state jurisdictions. Instead, it should continue to monitor the situation, work with the state commissions, individually and through NARUC, and advise local commissions of the results of programs that other states have adopted.

If some additional formal action appears warranted, the Commission should consider convening a federal-state joint conference under Section 410 (b) of the Communications Act.[5] This vehicle can provide a forum for state and federal commissioners to trade ideas and create innovative solutions to help retain or increase subscribership in targeted states or localities.

III. Voluntary Educational Efforts Are the Key to Subscribership.

Properly targeted voluntary educational efforts can be more effective than complex programs to help maintain high subscriber penetration levels. As the Commission acknowledges, some eligible consumers may be unaware of the availability of certain programs and services to keep them on the network.[6] Not only might they have no knowledge that they are eligible for low-income programs such as Link-up America and Lifeline assistance, but they may not know that a toll restriction service is being offered.

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[5] 47 U.S.C. § 410 (b).

[6] Notice at ¶ 46.

The homeless may not be aware that shelters and other community service points provide access to local telephone service and, in some cases, voice mailbox capabilities. Other customers who are not eligible for subsidized services may be unaware of low-cost local dialtone options that may meet the needs of persons who make relatively few local calls.

Community education efforts aimed at such targeted groups as low-income individuals and families and the elderly can help ensure that the target population learn about available programs. Educational efforts can include speakers at community meetings; brochures distributed through community service points, such as churches, schools, homeless shelters, and welfare and Social Security offices; and training programs for such outreach personnel as clergy, other community leaders, and social workers. To have maximum effect such programs should be developed jointly by the telephone company, the state commission, local government officials, and community groups.

Virginia, with Bell Atlantic's highest subscribership, is a case in point. Bell Atlantic-Virginia produced a very effective video for senior citizens on what telephone services are available and how best to use them. Bell Atlantic also developed a brochure with similar information that is disseminated through community organizations and associations and at the state fair and other exhibitions. These educational efforts have produced a very favorable reaction from the target community.

Accordingly, the Commission should work with the industry, with state commissions and local governments, and community and consumer organizations to help develop or augment voluntary community education programs designed to spark awareness of available services, programs, and pricing options.

IV. Some of the Specific Measures Identified in the Notice Are Not Only <u>Contrary to Sound Policy, But Also Exceed the Commission's Jurisdiction</u>.

The Commission has identified in the Notice a variety of possible regulations designed to retain or increase subscriber penetration. Bell Atlantic has demonstrated above why adoption of these or other programs should be left to the states. In addition, some of the specific proposals are under exclusive state jurisdiction, and the Commission would be exceeding its authority if it adopted them.

For example, one proposal would prohibit exchange carriers from denying local service for non-payment of interstate toll charges.[7] As shown above and in the Appendix in the description of individual state plans, similar prohibitions have had little effect on subscribership in states such as Pennsylvania and Delaware where they have been adopted, but they have resulted in skyrocketing uncollectables and, in some cases, administrative costs.[8] These cost increases may force some ratepayers to subsidize other customers' unpaid toll charges. The record does not support a finding that the benefits, if any, of a prohibition on termination of local service for nonpayment of toll charges exceeds these additional costs.

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[7] ***Id.*** at ¶ 12.

[8] Increases in subscribership in Pennsylvania have failed to keep pace with the nationwide average and Delaware's penetration has remained flat since its program was initiated. By contrast, Virginia and West Virginia, that do not prohibit denial of local service for non-payment of toll charges, have experienced increases in subscribership between 1984 and [redacted]

This is particularly the case given that some state commissions have found that a prohibition on denying local service for non-payment of toll or other charges ("DNP") would affirmatively harm all ratepayers. For example, in 1992, the Maryland Public Service Commission affirmed its Hearing Examiner's finding that

> the record is clear that the elimination of DNP will impose a negative economic burden on C&P [now Bell Atlantic-Maryland, Inc.] which will ultimately be borne by the timely paying ratepayers who are the vast majority of customers of C&P. The increased costs to C&P along with the loss of attribution revenues and potential loss of IXC billing contracts or likely reduction in those contracts will undoubtedly create pressure to increase rates for basic service -- a result that cannot be construed to be in the public interest.[9]

Other state commissions have reached similar conclusions.[10]

Even if a prohibition on DNP were good policy -- which it is not -- imposing such a prohibition would exceed the Commission's authority. DNP specifies the

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9 ***Investigation by the Commission on its own motion into the continuance of the disconnection of local telephone service for non-payment of charges for long distance service provided by interexchange carriers***, Case No. 8305, Proposed Order of Hearing Examiner at 9 (Md. P.S.C. May 22, 1992); ***aff'd***, Order No. 70169 (Oct. 30, 1992).

10 ***See, e.g., Chesapeake and Potomac Telephone Company***, TT86-11, Order No. 9820. 13 D.C. P.S.C. 58 (D.C. P.S.C. January 27, 1992) ("the Commission has determined that the practice of DNP is in the public interest"); ***Northwestern Bell Telephone Company's Proposal to Introduce Selective Carrier Denial as a Permanent Tariff Offering in Minnesota and An Investigation of Disconnection Policies of Local Exchange Companies***, Docket Nos. P-421/M-88-98 & P999/DI-89-921, Order Accepting Reports and Closing Dockets at n.1 (Minn. P.U.C. May 8, 1990); ***New England Telephone and Telegraph Company***, 78 P.U.R.4th 392 (Vt. Pub. Serv. Bd. 1986); ***Investigation Into Termination of Intrastate Telephone Service for Non-Payment of Interstate Charges***, 124 P.U.R.4th 166 (Conn. Dep't of Pub. Util. Control 1991); ***Investigation of Policy of Permitting Local Exchange Carriers To Discontinue Local Telephone Service For Nonpayment of a Bill To Another Company***, 125 P.U.R.4th 251 (Mich. P.S.C. 1991).

terms and conditions under which a telephone company may discontinue ***local dialtone*** service. The Communications Act, however, expressly denies this Commission jurisdiction over precisely these types of "practices ... or regulations for or in connection with intrastate communications service."[11]

While the Notice suggests that the Commission may have authority over DNP because of its impact on provision of interstate telecommunications services,[12] this suggestion has the issue backwards. A DNP policy specifies conditions under which a telephone company may deny ***local*** service. The service directly affected by the policy is, therefore, intrastate service, which is under the states' exclusive purview.

In fact, the very case cited in the Notice to support possible Commission jurisdiction denies the Commission that authority.[13] In that case, the Maryland Public Service Commission had attempted to prescribe a charge on interexchange carriers ("IXCs") for the right to have local service denied for non-payment of the IXCs' charges. In upholding the Commission's finding that Maryland had impinged on Commission jurisdiction by prescribing a rate for an interstate service, the Court of Appeals distinguished jurisdiction over the ***rates*** charged to an *IXC* for such a service from jurisdiction over the right of a LEC to deny a ***customer's local service*** for non-payment of toll charges:

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[11] 47 U.S.C. § 152(b).

[12] Notice at ¶¶ 31-32 & n.43.

[13] ***See Public Service Comm'n of Maryland v. FCC***, 909 F.2d 1510 (D.C. Cir. 1990) ("***Maryland***").

> The state argues that the implications of [the FCC's] position would mean that the FCC would then have jurisdiction to prevent the states from cutting off local service for any reason .... ***But we do not think that follows at all****....* [T]he FCC has recognized the states' strong parallel interest in the conditions under which an individual would have access to local service; ***it has left to the states the decision whether LECs can offer DNP at all. There is thus simply no reason to believe that the FCC will seek to interfere with the states' police power in this respect.***[14]

Consequently, the very case cited in the Notice to support possible Commission jurisdiction over DNP actually denies that jurisdiction.

The same considerations demonstrate that the Commission should not adopt nationwide deposit requirements, another of the measures proposed in the Notice.[15] From a policy perspective, deposit requirements should be addressed at the state level, where they can be tailored to address unique local circumstances. From a legal standpoint, deposit provisions are intrastate tariff conditions that are not subject to this Commission's jurisdiction.[16]

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[14] 909 F.2d at 1515, n.6 (emphasis added).

[15] *See* Notice at ¶ 26.

[16] If the Commission nonetheless attempts to prescribe deposit requirements, or issues recommendations to the states, it should condition lowered deposits on the customer's subscribing to toll restriction and agreeing to a strict repayment plan. If a customer misses payments or eliminates the toll restriction, the exchange carrier should be permitted to increase the deposit.

V. Conclusion.

Accordingly, the Commission should not prescribe uniform national regulations relating to local telephone subscribership. Instead, it should leave program development to the states and localities that are in a far better position to ascertain the needs of their constituents.

Respectfully Submitted,

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APPENDIX

Subscribership Programs In Several Bell Atlantic Jurisdictions

This Appendix consists of a discussion of programs in four of Bell Atlantic's jurisdictions that are intended, at least in part, to increase telephone subscribership. As will be seen, the success of the programs do not necessarily correlate positively to their cost or complexity.

Pennsylvania

Pennsylvania's Chapter 64 program is an administratively complex system that, among other provisions, requires telephone bills to show separate balances for basic local exchange services, toll, and non-basic services and prohibits denial of local service for non-payment of toll or non-basic charges. It also has provisions prescribing fairly protracted notification methods and periods before local service may be denied for failure to pay even local charges.

Although subscribership rates have remained high in Pennsylvania, the increase in penetration since the advent of Chapter 64 has been slightly less than the national average.[1] Pennsylvania entered Chapter 64 with a high subscribership level,

[1] Subscribership levels in Pennsylvania increased by 1.7% from 1984, the last year before initiation of Chapter 64, to March of 1995. Nationwide, penetration in that same period increased by an average of 2.3%. FCC, Com. Car. Bur., Industry Analysis Div., ***Monitoring Report***, CC Docket No. 87-339 (May 1995) ("Monitoring Report"); U.S. Census Bureau, Current Population Surveys (1995) ("Census Surveys").

largely because of its unique demographic characteristics. Pennsylvania's population is relatively elderly[2] and immobile,[3] with more people residing in rural areas than any other state in the country. Pennsylvania has a higher percentage of its population on Social Security and a smaller percentage below the poverty level than the national average. All of these factors led to a high penetration level.

Other factors, unrelated to Chapter 64, are likely contributors to the increased penetration since 1984. For example, measured usage plans became available which afford a lower-priced alternative to flat-rated service for customers who place relatively few local calls.[4] Bell Atlantic-Pennsylvania, Inc. also began to offer a low-priced voluntary toll restriction service.

On the other hand, the Chapter 64 program is costly. Regulations in Pennsylvania require Bell Atlantic to apply partial payments to basic local service, toll, and non-basic services, in that order, and to terminate local service only if the customer's payments are insufficient to cover the local portion of the bill. Before terminating service, however, Bell Atlantic must in most instances offer the customer an extended payment plan, and, if the customer accepts, local basic service must be maintained. Local service may then be denied only if the customer fails to meet his or her payment commitments, and then only after an additional protracted period of notice and negotiation. As a result of all these requirements, uncollectables in Pennsylvania are the second highest of any state in the country, having increased 393% since Chapter 64 became effective in 1985, and administrative costs have risen by over $24 million per year.

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[2] Edwin R. Byerly and Kevin Deardoff, ***National and State Population Estimates: 1990 to 1994***, Pub. No. P25-1127, U.S. Bureau of the Census (1995).

[3] Census Bureau Data Reported by Claritas, Inc.

[4] Over 27% of Bell Atlantic-Pennsylvania's residential customers subscribe to one of these plans. Other Bell Atlantic jurisdictions have similar measured service plans.

Delaware

In 1991, Delaware instituted a toll denial program somewhat similar to that in Pennsylvania. Since that program began, subscriber penetration in Delaware has remained fairly constant, starting at 96.0% in 1990, the year before the program began, increasing to 96.4% in 1991, dropping to 95.5% in 1994, and finally reaching 96.1% in March, 1995.[5] During the same period, Bell Atlantic's uncollectables in Delaware have risen 159%. The toll denial plan, therefore, added nothing to subscriber penetration, but it did contribute to higher costs to ratepayers, interexchange carriers, and Bell Atlantic.

District of Columbia

The District of Columbia, with very different demographics from the states discussed above, has tried other approaches. D.C. is an entirely urban jurisdiction. Its population is relatively young and highly mobile, with an ethnically diverse population, including a large number of immigrants. The District also has high unemployment and a large number of individuals below the federal poverty level. The population includes many homeless persons and others who are in short-term rental housing. With these demographics, it is not surprising that subscribership in the District is lower than in other Bell Atlantic jurisdictions, although it is higher than in ten other states. The D.C. Public

[5] Monitoring Report and Census Surveys. These changes are well within the margin of error of the study and are, therefore, statistically insignificant.

Service Commission has prescribed lifeline rates of $3.00 (for qualified low income families) or $1.00 (for low-income elderly), funded by other ratepayers. D.C. also has a special service for customers whose local service has been disconnected for non-payment of either local or toll bills, or are on the verge of being disconnected. This service includes mandatory toll restriction.

The District's program has had fair results to date. Subscribership in the District declined from nearly 95% in 1984 to 90% in 1994, a decline attributable in part to the significant middle class population shift from the city to the suburbs during that period. After the measures discussed above were adopted, telephone penetration began to improve, increasing to 92% in March, 1995.[6] Bell Atlantic is continuing to work with the Public Service Commission and community groups to find other ways to increase subscribership. These include educational efforts and making telephones and voice mailboxes available in homeless shelters and other community access points.

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[6] Census Surveys and Monitoring report.

Virginia

Virginia has the highest subscriber penetration in Bell Atlantic and the fifth highest in the United States at 96.9% in March 1995.[7] In addition, subscribership in Virginia has increased over time at a higher rate than the national average.[8] Yet Virginia's program is relatively simple - a low local service rate for individuals who qualify by being on Medicaid or Food Stamp programs, coupled with a voluntary community education program consisting of the distribution of informational brochures and a video informing senior citizens of available telephone services and how best to use them. Administering this program is relatively inexpensive and Bell Atlantic's uncollectable rate in Virginia has not increased significantly. Virginia's experience shows that complex programs with high administrative costs and soaring uncollectables may not always be the appropriate means of increasing subscribership.

[7] Census Surveys.

[8] Subscribership in Virginia increased 3.9% from 1984-March 1995, compared to a nationwide average increase of 2.3%.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments of Bell Atlantic" was served this 27th day of September, 1995 by hand on the parties on the attached list.

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